

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.121 of 2006

Murugan

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise XII Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector
Vellore Distirct,
Vellore.9.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records related to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 22.11.2005 on the file of the second respondent herein made in proceedings No.C3.D.O.46/2005, quash the same as illegal and consequently, direct the respondents herein to produce the said petitioner namely Murugan S/o Selvam before this Court and set the petitioner at liberty from detention, now detained in Central Prison, Vellore.

For Petitioner : Mr.C.C.Chellappan

For Respondents: Mr.Abudhukumar Rajarathinam,
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Murugan, who was detained as a 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and

Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 22.11.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 30.11.2005 was received by the Government on 05.12.2005 and the remarks were called for on 06.12.2005. The reminder was sent on 15.12.2005 and the remarks were received by the Government on 23.12.2005 and thereafter, the file was submitted on the same day i.e. on 23.12.2005 and the same was dealt with by the Under Secretary also on the same day i.e. on 23.12.2005 and by the Deputy Secretary on 26.12.2005 and finally, the Minister for Prohibition and Excise passed orders on 27.12.2005. The rejection letter was prepared on 04.01.2006 and the same was sent to the detenu on 05.01.2006 and served to him on 09.01.2006. The particulars of the Collectorate show that the intimation was received from the Government on 06.12.2005 and the parawar remarks were called for from the Sponsoring authority on 08.12.2005 and the remarks were received from the sponsoring authority on 15.12.2005 and the report was sent to the Government on 23.12.2005. As rightly pointed out by the learned counsel for the petitioner, though the parawar remarks were called for from the sponsoring authority on 08.12.2005, the remarks were received from the sponsoring authority by the Collectorate only on 15.12.2005. Here again, though the remarks were received from the sponsoring authority by the Collectorate on 15.12.2005, the report was sent to the Government only on 23.12.2005. There is no explanation at all for sending the remarks to the Collectorate and report to the Government belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the two spells of delay, viz., between 8.12.2005 and 15.12.2005 as well as 15.12.2005 and 23.12.2005, is on the higher side and in the absence of proper explanation by the persons concerned, the delay has prejudiced the detenu in considering his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed

to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

- 1.The Secretary to Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.
 - 2.The District Magistrate and District Collector, Vellore District, Vellore.
 3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)
 4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.
 5. The Public Prosecutor, High Court, Madras.
- 1 cc to Mr.C.C.Chellappan, Advocate, SR.19810

ak (co)

dv/24.4.06

सत्यमेव जयते

HCP. No.121 of 2006

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